



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 210603–0121; RTID 0648-XB661]

International Fisheries; Western and Central Pacific Fisheries for Highly Migratory Species; Extension of Emergency Decisions of the Western and Central Pacific Fisheries Commission

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary specifications.

SUMMARY: NMFS is extending the effective date of temporary specifications that implement three short-notice decisions of the Commission on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (Commission or WCPFC). NMFS issued temporary specifications on June 11, 2021, to implement short-notice WCPFC decisions regarding purse seine observer coverage, purse seine transshipments at sea, and transshipment observer coverage. NMFS is extending the effective date of those temporary specifications until April 14, 2022. NMFS is undertaking this action under the authority of the Western and Central Pacific Fisheries Convention Implementation Act (WCPFC Implementation Act) to satisfy the obligations of the United States as a Contracting Party to the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (Convention).

DATES: The temporary specifications are in effect from *[Insert date of publication in the FEDERAL REGISTER]*, until April 14, 2022.

FOR FURTHER INFORMATION CONTACT: Rini Ghosh, NMFS Pacific Islands Regional Office, 808-725-5033.

SUPPLEMENTARY INFORMATION: Under authority of the WCPFC

Implementation Act (16 U.S.C. 6901 *et seq.*), NMFS published an interim final rule that established a framework to implement short-notice WCPFC decisions. NMFS simultaneously issued temporary specifications to implement three short-notice WCPFC decisions until September 14, 2021. Additional background information on the Commission, the Convention, the interim final rule, and temporary specifications, is available in the **Federal Register** document that includes the interim final rule and temporary specifications (86 FR 31178; June 11, 2021). Pursuant to a WCPFC decision, NMFS extended the effective date of the temporary specifications until January 13, 2022 (86 FR 48916; September 1, 2021).

WCPFC Emergency Decisions and NMFS Implementation

On April 8, 2020, in response to the international concerns over the health of observers and vessel crews due to COVID-19, the Commission made an intersessional decision to suspend the requirements for observer coverage on purse seine vessels on fishing trips in the Convention Area through May 31, 2020. The Commission subsequently extended that decision several times, and the current extension is effective until March 15, 2022.

On April 20, 2020, in response to the international concerns over the health of vessel crews and port officials due to COVID-19, the Commission made an intersessional decision to modify the prohibition on at-sea transshipment for purse seine vessels as follows - purse seine vessels can conduct at-sea transshipment in an area under the jurisdiction of a port State, if transshipment in port cannot be conducted, in accordance with the domestic laws and regulations of the port State. The Commission subsequently extended that decision and the current extension is effective until March 15, 2022. NMFS

waived the requirement under 50 CFR 300.216(b)(1) by temporary specification until January 13, 2022.

On May 13, 2020, in response to the international concerns over the health of observers and vessel crews due to COVID-19, the Commission made an intersessional decision to suspend the requirements for observer coverage for at-sea transshipments. The Commission subsequently extended that decision and the current extension is effective until March 15, 2022. NMFS waived the requirements under 50 CFR 300.215(d) and 50 CFR 300.216(b)(2) by temporary specification until January 13, 2022.

Extension of Temporary Specifications

NMFS is using the framework as set forth at 50 CFR 300.228 to extend the effective date of the temporary specifications implementing the three recent WCPFC intersessional decisions (WCPFC decisions dated April 8, 2020, April 20, 2020, and May 13, 2020), described above, that are in effect until March 15, 2022. The regulations to implement short-notice WCPFC decisions at 50 CFR 300.228 provide that temporary specifications to implement such short-notice decisions will remain in effect no longer than 30 days after the expiration of the underlying Commission decision.

Accordingly, the requirements of the following regulations are waived. Such waiver shall remain in effect until April 14, 2022, unless NMFS earlier rescinds or extends this waiver by publication in the **Federal Register**:

- 50 CFR 300.223(e)(1). During the term of this waiver, U.S. purse seine vessels are not required to carry WCPFC observers¹ on all fishing trips in the Convention Area. However, the regulations at 50 CFR 300.215(c)(1) that require all vessels with WCPFC

¹ A WCPFC Observer means a person authorized by the Commission in accordance with any procedures established by the Commission to undertake vessel observer duties as part of the Commission's Regional Observer Programme, including an observer deployed as part of a NMFS-administered observer program or as part of another national or sub-regional observer program, provided that such program is authorized by the Commission to be part of the Commission's Regional Observer Programme. See 50 CFR 300.211.

Area Endorsements or for which WCPFC Area Endorsements are required to carry WCPFC observers when directed by NMFS remain in effect;

- 50 CFR 300.216(b)(1). During the term of this waiver, U.S. purse seine fishing vessels are not prohibited from at-sea transshipment conducted within the national waters of the coastal state, in accordance with applicable national laws. Transshipment on the high seas remains prohibited; and
- 50 CFR 300.216(b)(2) and 50 CFR 300.215(d). During the term of this waiver, owners and operators of U.S. commercial fishing vessels fishing for highly migratory species in the Convention Area are not prohibited from at-sea transshipment without a WCPFC observer on board the offloading or receiving vessel.

Classification

NMFS issues this action pursuant to the WCPFC Implementation Act and the regulations at 50 CFR 300.228. This action is exempt from review under Executive Order 12866.

There is good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment on the interim final rule and temporary measures included in this action, because prior notice and the opportunity for public comment is unnecessary and would be contrary to the public interest. Opportunity for public comment is unnecessary because the regulations establishing the framework and providing notice of the Commission's decisions described above have already been subject to notice and public comment, and all that remains is to notify the public of the extension of those Commission decisions. NMFS will be responding to public comments received on the framework and those Commission decisions in a separate rule. In addition, the opportunity for public comment is unnecessary because the extensions of effective date of three short-notice WCPFC decisions have already gone into effect and as a contracting party to the Convention, NMFS is obligated to carry out those

extensions.

For the reasons articulated above, there is also good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective dates for the temporary measures.

Authority: 16 U.S.C. 6901 *et seq.*

Dated: January 4, 2022.

Ngagne Jafnar Gueye,

Acting Director, Office of Sustainable Fisheries,

National Marine Fisheries Service.

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